

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SEVENTH REGION

IKO MONROE, INC.

Employer

and

CASE 7-RC-21508

PAPER, ALLIED INDUSTRIAL,
CHEMICAL AND ENERGY WORKERS
INTERNATIONAL UNION (PACE), AFL-CIO, CLC

Petitioner

Michael S. Pepperman and Julius M. Steiner, Attorneys, of Philadelphia, Pennsylvania, for the Employer.

Ted Curtis Sautter, of North Webster, Indiana, for the Petitioner.

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, hereinafter the Act, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding,¹ the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

¹ The parties filed briefs which have been carefully considered.

3. The labor organization involved herein claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Sections 2(6) and (7) of the Act.

The Employer and Petitioner stipulated that the petitioned-for unit of production and maintenance and warehouse employees is an appropriate unit. However, the Employer contends that the petition is premature and should be dismissed because the present complement of employees is not substantial or representative of the projected workforce due to its plans for expansion that will increase the number of employees and job classifications. The Petitioner contends the petition is not premature.

The Employer is engaged in the manufacture of roofing materials for industrial, commercial and residential buildings. It has 15 plants around the world, five of which are in the United States. Those facilities are in Delaware, Ohio, Illinois, Washington and the instant plant in Monroe, Michigan, the only facility involved in this proceeding.

The Monroe, Michigan site contains a main building, office building, fire pump building, water intake building, and a receiving and guardhouse building. The main building, which is about 200,000 square feet, houses the production area, warehouse, maintenance shop, several offices, locker rooms, a storage area for equipment, a boiler room and the control area.

The Monroe facility is headed by Wayne Thompson, IKO United States manufacturing manager, Walt Dindorffer, plant manager, and Terri Rouleau, human resources director.² The Employer currently employs 48 employees, including one temporary employee. Of those 48 employees, 33 are in the petitioned-for unit.

The Employer purchased the Monroe, Michigan paper mill, which was not then operational, from Jefferson-Smurfit in mid-1997. Since its purchase, the Employer has attempted to produce “roofing felt” paper, but has not been able to consistently do so. The mill has been shut down several times, with the last shut down beginning February 5, 1999. Since that date, the Employer has been engaged in the rebuilding of equipment. The Employer planned to begin production again on March 22, 1999, but was unsure of when it would be producing usable product. During the latest shut down, the Employer has also been readying the site for the addition of a new product line, saturated paper.

² I find, and the parties stipulated, that Thompson and Dindorffer are supervisors within the meaning of Section 2(11) of the Act in that they possess the ability to hire and discharge employees. The parties did not stipulate as to the status of Rouleau. While the record does not permit me to make a supervisory or managerial finding regarding Rouleau, I note that neither party urges her inclusion in the petitioned-for unit and her job title is clearly not included in the agreed-upon unit.

The paper making line that was in place when the Employer purchased the facility is run in assembly line fashion and is divided into a wet and dry end. The process begins at the wet end with the machine receiving the raw material. The raw material is transferred to felt and the felt is then fed through presses or vacuums which reduce the product to about 50 percent moisture. The paper then travels through several felt sections and is transferred to the dryer cans and fed through the six sections manually. Next, the paper is transferred to the calendar which grabs and compresses the paper sheet, then fed through a device which measures the moisture and the weight with a nuclear gauge. Finally, the paper ends up on the winder where it is wound into rolls about 84 inches in diameter. The rolls then go to the rewinder where they are cut into sheets of various widths and diameters.

There are currently six different production classifications: laborer, utility, machine tender, senior operator, operator, and maintenance. The entry-level position is laborer. The laborers perform manual labor and must possess a high school diploma or GED. There are currently two laborers with pay rates of \$10.30 per hour. Laborers progress to utility personnel, who fill in for operators and do cleanup. There are currently three utility employees making \$11.33 per hour. The machine tenders run the wet end of the paper machine, troubleshoot problems and maintain the quality standards. There are three machine tenders, and their wage is \$13.65 per hour. The senior operators run the pulper, winder and rewinder and are experienced equipment operators. These operators repair breakages, splice the paper and refeed it through the machine. There are no educational requirements for this position. There are seven senior operators and their wage rate is \$12.62 per hour. The operators fill in for senior operators and also operate the forklift and haul products and materials back and forth. There are five operators and their wage rate is \$12.10 per hour. The maintenance personnel repair, replace, modify and troubleshoot when the equipment fails. They also perform preventive maintenance. Educational requirements for this position are knowledge of tools and requisite knowledge for their trade. Maintenance personnel begin as apprentices and become journey persons after passing a company prepared exam. There are currently 12 maintenance employees, including an electrical apprentice and four millwright apprentices, with pay rates ranging from \$11.33 to \$16.48 per hour. All employees, except for laborers, must possess some knowledge of the paper mill industry. When needed, employees will fill in for employees in other classifications for vacations and absenteeism. There is also some degree of cross-training, but the record is unclear as to its extent.

The existing production employees are currently performing demolition work, cleaning, and painting, assisting the maintenance staff and receiving training in safety. At this time, the Employer is operating three shifts.

When in operation, the Employer has been attempting to produce two different weights of paper, 21 pound and 25 pound, respectively. The Employer plans to sell the 21 and 25

pound weight felt paper to its sister plants and will also use the felt paper as the base sheet in making saturated roofing materials with asphalt, the planned new product. This new product line is planned for implementation within the coming year.

The current expansion project consists of partial demolition of the main building, demolition of the existing office building, remodeling and/or construction in the main building, and building a new parking lot. Changes specific to the existing paper line include replacing the old vacuum system with a new system, thereby increasing the number of vacuum pumps. This system is projected to be installed by the year 2000. The steam/condensate system in the boiler room is to be changed by July or August 1999. The current water system is also to be changed and the changes should be complete by June 1999. A new piece of machinery called a PermaJet, used to improve the felt cleaning system, will be installed and operational by the end of April 1999. The Employer is both modifying the current wood system and purchasing new pieces of equipment for the system. It plans to complete this work by May 1999. The Employer is changing from a single line shaft drive system to 11 variable speed DC drives. The equipment for this change was to be installed in March 1999.

The expansion plans for the new product line, saturated paper, should be started in May 1999 and completed by year end. Sometime before year end, the Employer plans to either install or renovate the existing rail spur so that it can receive shipments of asphalt by rail. The Employer also intends to pave the road located behind the plant and may add another dock to its site. The Employer plans to install large tanks to hold asphalt, install coils and steam lines with which to heat the asphalt, and design supply lines that will take the asphalt from the rail site to the tanks and then ultimately to the machine. The Employer indicated that these pieces should be in place by May 1999. Presently, several pieces of the machine are in storage in the warehouse and others are in the design or fabrication stage. One piece, the winder, is being shipped from the Illinois plant sometime in April or May 1999. None of this equipment has yet been installed but installation should be completed by August or September 1999. The new line also calls for the construction of an area to house the electrical controls for the line. This will be completed by August or September, 1999. In addition to the new machinery necessary for the running of this new product, the Employer will also add a fume eliminator in order to dissipate the asphalt fumes. This will be installed by year-end. Finally, the Employer is also adding a new break room, lunch room, restroom, several new offices and reconstructing the warehouse area. That work should be completed by the end of 1999.

The plan to implement the new saturation line was initiated in July 1998. At that time, the Employer began placing orders for the new machinery and has since started receiving pieces. The new line will be located about 100 feet from the paper line in a different area of the main building. The Employer projects production of saturated felt to begin by December 31, 1999.

The saturator roll line will take either paper felt made at the Monroe facility or fiberglass mat, made at another IKO facility, and make rolled roofing. The line will be comprised of several components. With fiberglass mat, the new machine will unwind the product, run the fiberglass through a coater which will apply saturant asphalt and then rewind the fiberglass back into rolls. With the felt paper, the new machine will unwind the paper, run it through a saturator which will soak or saturate the paper with asphalt, and move the paper to the striking section where the paper absorbs the asphalt. The paper will next move to the cooling section, then to the finished product looper where it will be rewound into rolls which will be used for the underlayment for roofing. Finally, a robot will stack the rolled roofing product onto pallets that will be moved by a tow motor driver and stored in the warehouse.

The Employer contends that the new saturation line will add nine different job classifications, consisting of 24 or 31 new employees, by the end of 1999.³ New employee pay ranges were discussed in December 1998, with no final decisions made as of yet. New employees will be provided the training necessary to perform their job and the Employer anticipates it will take up to four weeks to provide adequate training. The Employer also plans to hire several new salaried individuals consisting of a superintendent, four supervisors, one environmental engineer, and one laboratory technician to perform quality control. The new classifications are as follows:

Two journeyman control electricians will be hired to program and maintain the new digital line drive on the paper line and on the new roll line. The Employer has begun the hiring process for these positions and will fill them as soon as qualified individuals possessing a two-year technical degree can be found. Their pay rate will be about 5% higher than that of the maintenance personnel on the paper line.

A boiler/steam technician will maintain the operation of the boiler system and will be hired by October 1999. The Employer has posted for the position and received two bids from current employees. The bidding process is closed and the Employer is considering their applications. Applicants must possess the knowledge necessary to understand the functioning and operation of a boiler. Currently, the maintenance millwright maintains the boiler. The pay rate will range from \$11 to \$18 per hour depending upon experience.

The Employer plans to hire three or four saturator operators by November or December 1999. These individuals will attend specific training classes to learn the intricacies of working with asphalt and should possess some understanding of the paper making process. Their pay rates will be similar to the operators on the paper line ranging from \$11 to \$12.50 per hour.

³ The number will depend on whether the Employer operates with three or four shifts, to be discussed infra.

Three or four unwinder operators and three or four winder operators will be hired by November or December 1999. The unwinders will unwind either the felt paper or fiberglass and splice the pieces together as they feed through the machine. While there is no unwinder position on the existing paper line, the winders on that line possess the same essential skills and perform some similar tasks, such as repairing tears in the paper or splicing it together. The winders for the saturation line will operate the winder machine that will roll the finished product, a task similar to that performed by the winder on the paper line. These operators will need to possess basic mechanical knowledge necessary to run the machinery and some knowledge of the product itself. Their pay rate will be about \$10.50 to \$11.50 per hour.

Three or four new packaging operators, with a basic understanding of hydraulics, will monitor the work of the robotic arm. Their job is similar to that of the winder operator. Their projected hire date is November or December 1999 and their pay rate will be \$10 to \$11 per hour.

Three or four saturator laborers will perform basic clean up work, similar to the work performed by the laborers on the paper line. They will need to know basic safety skills and how to drive a fork lift or tow motor. Their rate of pay will range from \$9 to \$10 per hour and their projected hire date is November or December 1999.

Three or four steel yard operators will be hired to unload the asphalt from the rail or tanker. These individuals must have knowledge about asphalt, steam, and fluid hydraulics. Their pay rate will be about \$11.50 to \$12 per hour with a projected hire date of November 1999.

Three or four saturator mechanics will maintain the saturation roll line. They must pass an Employer administered test covering the areas of mechanics, drives, hydraulics, pumps, and motors. This test is similar, if not the same, as the test administered to paper line maintenance personnel. The saturator mechanics' foundational knowledge will be essentially the same as a mechanic for the paper line. They will receive specific training necessary to maintain the roll line. Their wage will be from \$11 to \$16 per hour with a projected hire date of November or December 1999.

These projected new employees will have the same vacation schedules, benefits, holidays and disciplinary process as the current complement and will be meshed into the same seniority list. All employees will share locker rooms, use the same time clock and the same employee entrance. All employees will receive the same safety training.

The Employer plans to post job bids for all the new roll line classifications within the plant. The Employer will hire from within if the applicants possess the requisite skills and

knowledge. The Employer will allow transfers, with the proper safety training, between the two lines and the Employer will provide training on various aspects of production. The Employer anticipates all hiring to be completed by November or December 1999.

The Employer expects that it will operate four shifts on both the roofing felt and saturator roll lines. It is undecided on the details, but is contemplating two 12 hour daily shifts, with employees working two days on, two days off. A fourth shift will require six additional roofing felt employees and seven additional saturation line employees. The addition of the fourth shift is entirely dependent upon the market and the Employer's sales. The record discloses no evidence regarding projected sales.

The appropriate test in cases involving expanding units is "whether the employees at the time of the holding of an election constitute a substantial and representative segment of the complement to be employed within the foreseeable future." *General Cable Corp.*, 173 NLRB 251 (1968); *Endicott Johnson de Puerto Rico, Inc.*, 172 NLRB 1676, 1677 n.3 (1968).

To determine whether an employee complement is "substantial and representative", the Board has adopted a case-by-case approach, with the emphasis on achieving "the desired balance between the objective of insuring the goal of maximum employee participation in the selection of a bargaining agent, while not depriving current employees of immediate representation." *Toto Industries*, 323 NLRB 645 (1997). The major factors considered are the certainty of, and time frame for, the expansion, a comparison of the size of the present work force with the expected ultimate employee complement and a comparison of the number of current job classifications requiring different skills with the number of expected job classifications requiring different skills. *General Cable Corp.*, supra; *Endicott Johnson de Puerto Rico, Inc.*, supra; and *Libbey Glass Division*, 211 NLRB 939 (1974).

As for the first factor, the Employer's expansion plan involving the addition of the saturator roll line appear certain and projected for completion by the end of 1999.

As to the second factor regarding the number of employees, I find that the contemplated addition of a fourth shift to either the paper or saturation lines is too speculative or remote in nature to be considered. *Laurel Associates, Inc.*, 325 NLRB No. 102 (April 9, 1998); *Beart Steel & Key Research & Development Co.*, 176 NLRB 134 (1969). Thus, with the addition of the three shifts of saturation line employees, the total unit employee complement is projected to be increased from 33 to 57. Therefore, the current employees represent 58% of the projected work force. Even with the addition of a fourth shift, the current employees represent approximately 47% of the projected employee complement.

As to the third factor pertaining to job classifications, while the Employer produced extensive evidence regarding the renovation, construction and expansion of the buildings and machinery, this expansion does not appear to significantly affect the classifications or types of skills required of employees. The record is devoid of testimony that the saturation line workers will perform significantly different job tasks than are currently performed. The Employer argues that the boiler/steam technician, journeyman controls electricians and saturator mechanics are distinct job classifications. However, these employees will perform essentially the same tasks as employees classified as maintenance personnel. The existing maintenance classification includes at least two different areas of skilled trades, electrical and millwright. These trades currently maintain the various machines that run the paper line, maintain the current electrical drive system and maintain the current boiler system.

The saturator laborer and winder operator classifications are essentially the same as the existing laborer and senior operator or operator classifications, respectively. Further, the unwinder operator will perform essentially similar tasks as those of the current senior operators and operators, in that the latter must also splice or repair breakages and refeed the paper through the unwinder.

Accordingly, I find that the six classifications described above, are essentially similar to existing job classifications. These six classifications merely involve distinct operations rather than separate and distinct job classifications in terms of types of skills required of the employees. *Endicott Johnson de Puerto Rico, Inc.*, supra; *Frolic Footwear*, 180 NLRB 188 (1970). Thus, I further find that the addition of the saturation line will add three new classifications, saturator operator, packaging operator and steel yard operator, to the existing six classifications.

In sum, the Employer's projected expansion of its work force will not occur until 8 to 9 months after the hearing in this matter was held and 7 to 8 months after the issuance of this decision. The current complement of employees represents 58% or 47% of the total projected employee complement and the number of existing job classifications represents 67% of the total projected number of classifications. Based on these facts, I find that the current complement is "substantial and representative" of the total projected complement and conducting an immediate election would not unreasonably disenfranchise a substantial number of employees. *General Cable Corp.*, supra; *Wittman Steel Mills, Inc.*, 253 NLRB 320 (1980); *Toto Industries (Atlanta), Inc.*, 323 NLRB 645 (1997).⁴

5. Based on the foregoing, I conclude that the following employees of the Employer constitute an appropriate unit for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

⁴ In *World Southern Corp.*, 215 NLRB 287 (1974), cited by the Employer in its brief, the expansion from 297 to 445 employees was to take place within 2½ months of the hearing.

All full-time and regular part-time production, maintenance and warehouse employees, employed by the Employer at its facility located at 1151 West Elm Avenue, Monroe, Michigan, but excluding professional employees, office clerical employees, guards and supervisors as defined in the Act.⁵

Those eligible shall vote as set forth in the attached Direction of Election.

Dated at Detroit, Michigan, this day 5th of April, 1999.

(SEAL)

/s/ William C. Schaub, Jr.
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⁵ In its brief, the Petitioner contends that Craig Reed, classified by the Employer as CAD operator should be excluded from the unit. This issue was not litigated at the hearing. Accordingly, I cannot make a determination as to Reed's eligibility and he may vote subject to challenge by either party.